

Advanced Technology Institute Bill

Government Bill

Explanatory note

General policy statement

This Bill establishes a new statutory Crown entity, the Advanced Technology Institute (**ATI**), with the purpose of supporting businesses, primarily in the manufacturing sector and services sector, to improve their competitiveness and growth through science and technology-based innovation and its commercialisation.

The policy aims of ATI include working to—

- broaden the base of technologically aware and innovation-ready businesses, in particular increasing the number of businesses undertaking research and development (**R&D**):
- stimulate existing business R&D performers to increase their expenditure on R&D:
- build the innovation and commercialisation capability of businesses, including by facilitating access by businesses to expertise and facilities:
- improve information about, and the accessibility of, the distributed science, engineering, design, and technology development capability that exists in research organisations:
- facilitate the transfer of knowledge and technology from ATI, Crown Research Institutes, and other research organisations (defined in the Bill as RS&T providers) to businesses by

improving connectivity and information flows with RS&T providers in New Zealand and overseas:

- encourage greater mobility of staff between RS&T providers and businesses.

The Bill gives effect to those parts of the Government's decisions to establish ATI that require legislation, including—

- establishing ATI and providing for its main objective, functions, and operating principles; and
- providing for transitional and other matters.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on **1 February 2013**.

Part 1

Preliminary provisions

Clause 3 states the purpose of the Bill. The purpose is to—

- establish the Advanced Technology Institute (**ATI**) and provide for its main objective, functions, and operating principles; and
- provide for transitional and other matters.

Clause 4 defines certain terms used in the Bill.

Clause 5 provides that, when enacted, the Bill binds the Crown.

Part 2

Advanced Technology Institute

Subpart 1—Establishment of ATI

ATI established

Clauses 6 to 11 establish ATI, confer its status as a Crown entity, and contain provisions relating to its board.

Clause 6 establishes ATI.

Clause 7 provides that ATI is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004 and that Act applies to ATI except to the extent that the Bill expressly provides otherwise.

Clause 8 provides for the appointment and membership of ATI's board. The board is to consist of at least 5, but not more than 9, members appointed by the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Bill (the **Minister**).

Clause 9 enables the Minister to appoint the chief executive of the Ministry (being the department of State responsible for the administration of the Bill) as a special adviser to the board to assist the board in aligning its strategies and activities with government policy.

Clause 10 enables the Minister to appoint a stakeholder advisory group to provide advice to the board on the performance of its functions.

Clause 11 restricts the board's power of delegation.

ATI's main objective, functions, and operating principles

Clauses 12 to 14 state ATI's main objective, functions, and operating principles.

Clause 12 provides that ATI's main objective is to support science and technology-based innovation and its commercialisation by businesses, primarily in the manufacturing sector and services sector, in order to improve their growth and competitiveness.

Clause 13 provides that ATI's functions are to—

- foster an environment that encourages and supports businesses to improve their growth and competitiveness through science and technology-based innovation and related activities:
- promote and facilitate networking and collaboration among businesses and between RS&T providers and businesses to assist businesses to undertake, or benefit from, science and technology-based innovation and related activities:
- facilitate the transfer of knowledge and technology from RS&T providers to businesses:
- undertake research and development:
- provide services to businesses that contribute to ATI's main objective:
- allocate and administer RS&T funding:

- invest in persons or projects that may assist businesses to undertake, or benefit from, science and technology-based innovation and related activities;
- perform or exercise any other function or power imposed or conferred on ATI by any other enactment;
- perform any additional function that the Minister directs under section 112 of the Crown Entities Act 2004.

Subclauses (2) and (3) give examples of the ways in which ATI may perform some of its functions.

Clause 14 specifies the operating principles that apply to ATI in meeting its main objective and performing its functions.

Subpart 2—Transition to ATI and other matters

Transfer of IRL

Clause 15 provides that Industrial Research Limited (**IRL**) ceases to be to a Crown Research Institute and is deemed to be a subsidiary of ATI on the commencement of the Bill.

Transfer of employees

Clause 16 deals with the transfer of Ministry of Business, Innovation, and Employment (**MBIE**) and New Zealand Trade and Enterprise (**NZTE**) employees to ATI as follows:

- *subclause (1)* provides that the chief executive of MBIE must identify the employees of MBIE and the chief executive of NZTE must identify the employees of NZTE whose duties are, overall, more closely connected with the functions of ATI and whose positions will, as a result of the establishment of ATI, cease to exist within MBIE or NZTE (as the case may be);
- *subclause (2)* provides that an employee identified under *subclause (1)* must be offered equivalent employment by ATI;
- *subclause (3)* restricts an employee's entitlement to compensation for technical redundancy if the employee's position ceases to exist because the duties of the position are more closely connected with the functions of ATI and the employee is offered equivalent employment in ATI (whether or not the employee accepts the offer):

- *subclause (4)* defines equivalent employment as employment that is—
 - in substantially the same position; and
 - in the same general locality; and
 - on terms and conditions no less favourable overall than those applying to the employee immediately before the date the offer of employment is made to the employee; and
 - on terms that treat the employee’s period of service with MBIE or NZTE (as the case requires) as if it were continuous service with ATI.
- *subclause (5)* provides that *clause 16* overrides any provision to the contrary in Part 6A of the Employment Relations Act 2000.

Clause 17 deals with the transfer of IRL employees. It provides that an IRL employee is not entitled to compensation for technical redundancy if the employee’s position in IRL has ceased to exist because the chief executive of ATI has determined that the employee’s duties will no longer be carried out by IRL and the employee is—

- offered equivalent employment (as defined in *clause 16(4)*) by ATI (whether or not the employee accepts the offer); or
- offered and accepts other employment in ATI.

Clause 18 provides that—

- the employment of a transferred employee is not new employment for the purposes of the KiwiSaver Act 2006; and
- the employee is not a new employee for the purposes of the Employment Relations Act 2000 (for example, in relation to trial periods under section 67A or 67B of that Act).

Clause 19 preserves superannuation entitlements in the Government Superannuation Fund for transferred employees.

Consequential amendments

Clause 20 consequentially amends—

- Part 1 of Schedule 1 of the Crown Entities Act 2004 to add ATI to the list of statutory entities that are Crown agents;
- Part 2 of Schedule 1 of the Ombudsmen Act 1975 to add ATI to the list of organisations other than local organisations to

which that Act applies (accordingly the Official Information Act 1982 also applies to ATI):

- the National Standards Regulations 1976 to reflect changes made by the Bill in respect of the transfer of IRL to ATI.
-

Hon Steven Joyce

Advanced Technology Institute Bill

Government Bill

Contents

		Page
1	Title	2
2	Commencement	2
Part 1		
Preliminary provisions		
3	Purpose	2
4	Interpretation	2
5	Act binds the Crown	3
Part 2		
Advanced Technology Institute		
Subpart 1—Establishment of ATI		
<i>ATI established</i>		
6	Advanced Technology Institute established	4
7	ATI is Crown entity	4
8	ATI's board	4
9	Special advisers	4
10	Stakeholder advisory group	4
11	Board must not delegate certain powers	5
<i>ATI's main objective, functions, and operating principles</i>		
12	ATI's main objective	5
13	ATI's functions	5
14	Operating principles	7

	Subpart 2—Transition to ATI and other matters	
	<i>Transfer of IRL</i>	
15	IRL to be subsidiary of ATI	8
	<i>Transfer of employees</i>	
16	Transfer of MBIE and NZTE employees to ATI	8
17	Transfer of employees of IRL subsidiary to ATI	9
18	Terms and conditions of transferred employees	9
19	Government superannuation fund	10
	<i>Consequential amendments</i>	
20	Consequential amendments	10
	Schedule	11
	Consequential amendments	

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Advanced Technology Institute Act **2012**.
- 2 Commencement**
This Act comes into force on **1 February 2013**. 5

Part 1
Preliminary provisions

- 3 Purpose**
The purpose of this Act is to—
- (a) establish the Advanced Technology Institute and to provide for its main objective, functions, and operating principles; and
 - (b) provide for transitional and other matters.
- 4 Interpretation**
In this Act, unless the context otherwise requires,— 15
ATI means the Advanced Technology Institute established by **section 6**
board means the board of ATI

IRL means Industrial Research Limited, being a Crown Research Institute within the meaning of the Crown Research Institutes Act 1992

MBIE means the Ministry of Business, Innovation, and Employment 5

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Ministry means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act 10

NZTE means New Zealand Trade and Enterprise established under section 7 of the New Zealand Trade and Enterprise Act 2003 15

RS&T funding has the same meaning as in section 4 of the Research, Science, and Technology Act 2010

RS&T provider means—

- (a) ATI:
- (b) a Crown Research Institute within the meaning of the Crown Research Institutes Act 1992: 20
- (c) any other research organisation or person (whether in New Zealand or overseas) undertaking any activity, or providing any service, that enables businesses to undertake, or benefit from, science and technology-based innovation and related activities 25

shareholding Ministers has the same meaning as in section 10(1) of the Crown Entities Act 2004

technology platform means a facility that pools skills, resources, or equipment in a manner that is intended to enhance the scientific, technological, or other related capability or performance of the facility's users. 30

5 Act binds the Crown

This Act binds the Crown.

Part 2
Advanced Technology Institute
Subpart 1—Establishment of ATI

ATI established

- 6 Advanced Technology Institute established** 5
This section establishes the Advanced Technology Institute.
- 7 ATI is Crown entity**
- (1) ATI is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (2) The Crown Entities Act 2004 applies to ATI except to the extent that this Act expressly provides otherwise. 10
- 8 ATI’s board**
The Minister must appoint at least 5, but not more than 9, persons as members of the board.
- 9 Special advisers** 15
- (1) The Minister may appoint the chief executive of the Ministry as a special adviser to the board.
- (2) The function of the special adviser is to assist the board to align its strategies and activities with government policy.
- (3) The special adviser may attend any meeting of the board (or any committee of the board) but may not vote. 20
- (4) The board (or any committee of the board) must give the special adviser sufficient notice of its meetings and copies of all documents and materials to be considered at each meeting.
- 10 Stakeholder advisory group** 25
- (1) The Minister may establish a stakeholder advisory group (an **advisory group**) to provide advice to the board on matters relating to the performance of its functions.
- (2) The board must consider any advice it receives from the advisory group. 30

- (3) The members of the advisory group must be appointed by the Minister, on terms and conditions that the Minister determines, by written notice to each member.
- (4) When appointing members of the advisory group, the Minister must ensure, as far as practicable, that— 5
- (a) the advisory group’s membership is broadly representative of the manufacturing sector, services sector, and RS&T providers; and
- (b) the members collectively have sufficient experience and knowledge of the manufacturing sector, services sector, 10 and as RS&T providers to give appropriate advice to the board.
- (5) The Minister may give terms of reference on the topics or subject areas on which the advisory group may advise the board.
- (6) The advisory group must comply with any terms of reference 15 given by the Minister.
- (7) The advisory group may determine its own procedure.

11 Board must not delegate certain powers

- (1) The board must not delegate its power to— 20
- (a) borrow or lend money:
- (b) acquire or dispose of real property:
- (c) acquire or dispose of securities:
- (d) set up a subsidiary:
- (e) appoint a chief executive of ATI.
- (2) In other respects, section 73 of the Crown Entities Act 2004 25 applies to the board.

ATI’s main objective, functions, and operating principles

12 ATI’s main objective

ATI’s main objective is to support science and technology- 30 based innovation and its commercialisation by businesses, primarily in the manufacturing sector and services sector, in order to improve their growth and competitiveness.

13 ATI’s functions

- (1) ATI’s functions are to— 35

-
- (a) foster an environment that encourages and supports businesses to improve their growth and competitiveness through science and technology-based innovation and related activities:
 - (b) promote and facilitate networking and collaboration among businesses and between RS&T providers and businesses to assist businesses to undertake, or benefit from, science and technology-based innovation and related activities: 5
 - (c) facilitate the transfer of knowledge and technology from RS&T providers to businesses: 10
 - (d) undertake research and development:
 - (e) provide services to businesses that contribute to ATI's main objective:
 - (f) allocate and administer RS&T funding: 15
 - (g) invest in persons or projects that may assist businesses to undertake, or benefit from, science and technology-based innovation and related activities:
 - (h) perform or exercise any other function or power imposed or conferred on ATI by any other enactment: 20
 - (i) perform any additional function that the Minister directs under section 112 of the Crown Entities Act 2004.
- (2) Examples of the ways in which ATI may perform the function specified in **subsection (1)(b)** (which relates to promoting and facilitating networking and collaboration between RS&T providers and businesses) include— 25
- (a) supporting the development of technology platforms:
 - (b) encouraging the exchange of staff, students, or other individuals between RS&T providers and businesses:
 - (c) assisting businesses to identify and access grants and other assistance programmes that are intended to support science and technology-based innovation and related activities. 30
- (3) Examples of the ways in which ATI may perform the function specified in **subsection (1)(e)** (which relates to providing services to businesses) include— 35
- (a) undertaking research and development in collaboration with, or on behalf of, businesses:

- (b) assisting businesses to access (within New Zealand or overseas) relevant expertise, intellectual property, equipment, facilities, or anything else that may assist those businesses to undertake, or benefit from, science and technology-based innovation and related activities: 5
- (c) providing information to businesses about potential new technologies or scientific discoveries and assisting businesses to use them, develop them, or exploit them commercially:
- (d) providing training and advice to assist businesses to undertake science and technology-based innovation and related activities (including how to access and manage technology or intellectual property): 10
- (e) providing product analysis, process testing, calibration and certification, or other related measurement services. 15

14 Operating principles

- (1) In meeting its main objective, and performing its functions, ATI must—
 - (a) aim to ensure that any activities it undertakes are for the net benefit of New Zealand; and 20
 - (b) proactively engage with businesses, other RS&T providers, and other persons that ATI considers relevant to the performance of its functions; and
 - (c) maintain an awareness of international trends and advances in science and technology; and 25
 - (d) ensure that any activities it undertakes or services it provides are undertaken or provided in an efficient and cost-effective manner that—
 - (i) has regard to businesses' commercial imperatives and time frames; and 30
 - (ii) utilises existing capability within or among RS&T providers.
- (2) In addition, in performing the function specified in **section 13(1)(f)** (which relates to allocating and administering RS&T funding), ATI must— 35
 - (a) act fairly and transparently; and
 - (b) implement systems and procedures to enable it to give effect to the principle set out in **paragraph (a)**; and

- (c) make information about those systems and procedures available on its Internet site; and
 - (d) include in its annual report under section 150 of the Crown Entities Act 2004 a report on its implementation of those systems and procedures. 5
- (3) The Auditor-General must, when carrying out a financial report audit of ATI under section 15 of the Public Audit Act 2001, report on ATI's implementation of the systems and procedures referred to in **subsection (2)**.

Subpart 2—Transition to ATI and other matters 10

Transfer of IRL

15 IRL to be subsidiary of ATI

- (1) On the commencement of this Act, IRL—
- (a) ceases to be a Crown Research Institute and, accordingly, the Crown Research Institutes Act 1992 ceases to apply to IRL; and 15
 - (b) is deemed to be a subsidiary of ATI.
- (2) On the commencement of this Act, the shareholding Ministers must transfer their shares in IRL to ATI. 20

Transfer of employees

16 Transfer of MBIE and NZTE employees to ATI

- (1) The chief executive of MBIE must identify the employees of MBIE and the chief executive of NZTE must identify the employees of NZTE— 25
- (a) whose duties are, overall, more closely connected with the functions of ATI; and
 - (b) whose positions will, as a result of the establishment of ATI, cease to exist within MBIE or NZTE (as the case may be). 30
- (2) An employee who is identified under **subsection (1)** must be offered equivalent employment by ATI.
- (3) The employee is not entitled to receive any payment or other benefit on the ground that the position held by the employee in MBIE or NZTE (as the case may be) has ceased to exist if— 35

-
- (a) the position ceases to exist because the duties of the position are more closely connected with the functions of ATI; and
- (b) the employee is offered equivalent employment by ATI (whether or not the employee accepts the offer). 5
- (4) In this section and **section 17, equivalent employment** means employment that is—
- (a) in substantially the same position; and
- (b) in the same general locality; and
- (c) on terms and conditions that are no less favourable overall than those applying to the employee immediately before the date the offer of employment is made to that employee; and 10
- (d) on terms that treat the period of service with the relevant agency (and every other period of service recognised by that agency as continuous service) as if it were continuous service with ATI. 15
- (5) This section overrides any provision to the contrary in Part 6A of the Employment Relations Act 2000.
- 17 Transfer of employees of IRL subsidiary to ATI** 20
- An employee of IRL is not entitled to receive any payment or other benefit on the ground that the employee's position in IRL has ceased to exist if—
- (a) the position ceases to exist because the chief executive of ATI has determined that the employee's duties will no longer be carried out by IRL; and 25
- (b) the employee is—
- (i) offered equivalent employment by ATI (whether or not the employee accepts the offer); or
- (ii) offered and accepts other employment in ATI. 30
- 18 Terms and conditions of transferred employees**
- (1) The employment of a transferred employee by ATI does not—
- (a) constitute new employment for the purposes of the KiwiSaver Act 2006; or
- (b) treat that employee as a new employee for the purposes of the Employment Relations Act 2000. 35

- (2) In this section, **transferred employee** means a person who is offered, and accepts, employment in ATI under **section 16 or 17**.

19 Government superannuation fund

- (1) Any person who, immediately before becoming an employee of ATI, was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is deemed, for the purpose of that Act, to be employed in the Government service as long as the person continues to be an employee of ATI. 5 10
- (2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of ATI were Government service.
- (3) **Subsection (1)** does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor. 15
- (4) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of ATI is the controlling authority.

Consequential amendments 20

20 Consequential amendments

Amend the enactments set out in the **Schedule** as set out in that schedule.

Schedule

Consequential amendments

s 20

Part 1

Amendments to Acts

Crown Entities Act 2004 (2004 No 115)

In Schedule 1, Part 1, insert in its appropriate alphabetical order and under the headings as shown: 5

Name	Exemption from acquisition of securities, borrowing, guarantee, and derivative rules				Exemption from section 165 (net surplus payable to Crown)
	s 161	s 162	s 163	s 164	
Advanced Technology Institute	✓	✓	✓		

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 2, insert in its appropriate alphabetical order: “Advanced Technology Institute”.

Part 2

10

Amendments to regulations

National Standards Regulations 1976 (SR 1976/239)

In regulation 2, insert in its appropriate alphabetical order:

“**Advanced Technology Institute** means the Advanced Technology Institute established by **section 6** of the Advanced Technology Institute Act **2012**”.

In regulation 2, revoke the definition of **Industrial Research Limited**.

In regulation 2, definition of **Measurement Standards Laboratory of New Zealand**, replace “Industrial Research Limited” with “the Advanced Technology Institute”. 20